

The Honorable Marsha J. Pechman

Christopher W. Tompkins
Natasha A. Khachatourians
Betts Patterson & Mines, P.S.
One Convention Place, Suite 1400
701 Pike Street
Seattle, Washington, 98101-3927
Telephone: 206-292-9988
ctompkins@bpmlaw.com
nkhachatourians@bpmlaw.com

James F. Rogers
Nelson Mullins Riley & Scarborough LLP
1320 Main Street, 17th Floor
Meridian
Columbia, South Carolina 29021
Telephone: 803-799-2000
jim.rogers@nelsonmullins.com
Attorneys for Defendants

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

HARVEY L. TALBERT,) No.: 2:19-cv-01468-MJP
)
 Plaintiffs,)
 v.)
)
 C. R. BARD INCORPORATED, BARD)
 PERIPHERAL VASCULAR,)
 INCORPORATED,)
)
 Defendants.)
)
)
)
)

TRIAL SCHEDULE ORDER

JOINT (PROPOSED) SCHEDULING ORDER
No. 2:19-cv-01468-MJP

Betts
Patterson
Mines
One Convention Place
Suite 1400
701 Pike Street
Seattle, Washington 98101-3927
(206) 292-9988

1 Plaintiff Harvey Talbert and Defendants C. R. Bard, Inc. and Bard Peripheral Vascular,
2 Inc. (collectively, “Bard”) (Plaintiffs and Bard are collectively referred to herein as “the Parties”),
3 respectfully move this Court to issue a scheduling order for the reasons set forth below:

4 1. On August 17, 2015, the Judicial Panel on Multidistrict Litigation (“JPML”)
5 ordered that centralization pursuant to 28 U.S.C. § 1407 was appropriate for cases involving
6 allegations of defects in the various models of Bard’s IVC filters. Thereafter, a multidistrict
7 litigation proceeding (“MDL”) was created before the Honorable David G. Campbell, in the
8 District of Arizona, known as the *In Re: Bard IVC Filters Products Liability Litigation*, MDL
9 2641.

10 2. The above-styled case was pending in the *In Re: Bard IVC Filters Products*
11 *Liability Litigation*, MDL 2641.

12 3. On August 20, 2019, the MDL Court entered a *Suggestion of Remand and Transfer*
13 *Order*. See Suggestion of Remand and Transfer Order, Case No. 2:15-md-02641-DGC, MDL
14 Doc. 19899 (D. Ariz. August 20, 2019). As part of its *Suggestion of Remand and Transfer Order*,
15 the MDL Court provided a history of the litigation (including that the Parties had completed all
16 common fact and expert discovery), summaries of bellwether cases, and the Court’s rulings on
17 various matters common to all cases. See *id.* at 6–31.

18 4. Case-specific discovery in the above-styled case that was conducted before or
19 during the time it was a part of MDL 2641 was minimal and limited to the submission of basic
20 plaintiff and defense profile forms. Consequently, the Parties will need to conduct case-specific
21 discovery. The Parties note that the medical record collection process alone typically takes at least
22 three months.

23 5. The Parties are in the process of discussing case management orders similar to the
24 following orders signed by the court in the MDL 2641: Joint Stipulation for Entry of Protective
25 Order, attached hereto as Exhibit A, and Case Management Orders, attached hereto as Exhibits B

1 (Case Management Order No. 14), Exhibit C (Case Management Order No. 21), and Exhibit D
2 (Case Management Order No. 12). The Parties are hopeful that they will reach consensus on these
3 case management orders but need additional time. If the parties cannot reach agreement, they will
4 notify the Court as to the dispute within 60 days of this filing.

5 6. The Parties respectfully move the Court to enter a scheduling order for case-specific
6 discovery, case-specific dispositive motions and case-specific *Daubert* motions (if any), with the
7 deadlines set forth below.

Proposed Date	Deadline
Wednesday, December 18, 2019	Rule 26(a) disclosures to be filed by the Parties.
Friday, January 17, 2020	Plaintiff will produce the completed Plaintiff Fact Sheet and related information utilized in the In re: C. R. Bard, Inc. IVC Filter MDL. The Parties agree that the terms incorporated into the Plaintiff Fact Sheet form adopted in MDL 2641 and Federal Rules of Civil Procedure 26, 33, 34, and 37 shall apply to the completion and supplementation of the Plaintiff Fact Sheet.
Tuesday, February 18, 2020	Defendants will produce the Defendant's Fact Sheet and related information utilized in the In re: C. R. Bard, Inc. IVC Filter MDL. The Parties agree that the terms incorporated into the Defendant Fact Sheet form adopted in MDL 2641 and Federal Rules of Civil Procedure 26, 33, 34, and 37 shall apply to the completion and supplementation of the Plaintiff Fact Sheet.
July 10, 2020	Fact Discovery deadline
July 24, 2020	Expert reports by Plaintiff
August 7, 2020	Plaintiff's experts deposed
August 21, 2020	Expert reports by Defendants
September 4, 2020	Defendants' experts deposed

Proposed Date	Deadline
September 18, 2020	Disclosure of rebuttal expert reports
October 16, 2020	Any rebuttal experts deposed
October 16, 2020	Expert discovery cut off
November 16, 2020	Filing of <i>Daubert</i> motions and other dispositive motions
February 8, 2021	Motions in Limine
March 1, 2021	Pretrial Order
March 1, 2021	Trial Brief
March 1, 2021	Voir Dire/Jury Instructions
March 4, 2021 at 1:30 PM	Pretrial Conference
March 15, 2021 at 9:00 AM	Trial commences

Dated December 3, 2019.



Marsha J. Pechman
United States District Judge